



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,751	01/02/2004	Jen-Lin Chao	252011-1860	1841
47390 7590 04/16/2007 THOMAS, KAYDEN, HOSTEMEYER & RISLEY LLP 100 GALLERIA PARKWAY SUITE 1750 ATLANTA, GA 30339			EXAMINER TINKLER, MURIEL S	
			ART UNIT 3691	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/16/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/750,751	Applicant(s) CHAO ET AL.	
	Examiner Muriel Tinkler	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/22/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This application has been reviewed. The amended claims 1, 7, 13, 19, 22, 23, 30, 33, 34, 41, 44, 45, 52, 54, 55, and 57 and the original claims 2-6, 8-12, 14-18, 20, 21, 24-29, 31, 32, 35-40, 42, 43, 46-51, 53, and 56 are pending. The rejections are as follows.

Response to Arguments

1. Applicant's arguments filed December 22, 2006 have been fully considered but they are not persuasive.
2. The applicant argues that Bush and Kennedy fail to disclose the following item(s) (paraphrased and shortened): In claim 1: the first and second elements (first capacity and second capacity). The Examiner shows that Bush does teach a first capacity and management cycle, as a capacity management method that recognizes the coupling of his system demands in a seasonal cycle, as shown in the Office Action mailed on September 27, 2006. Bush also discloses the use of a second capacity, as a research mode simulating a capacity management environment, also shown in the Office action mailed on September 27, 2006. Therefore, the rejection of claim 1 in the office action dated September 27, 2006 is maintained.
3. The applicant argues that Bush and Kennedy fail to disclose the following item(s) (paraphrased and shortened): In claim 7 and 13: exchanging the first capacity with the second and directing the first capacity to meet the second device design. Bush does disclose the a design for his invention, in that the first design can be substituted for the

Art Unit: 3691

second design, and vice versa. Bush discloses this as, directing the first capacity to meet the second device design and the second capacity to meet the first device design, as shown in the Office Action mailed on September 27, 2006. Therefore, the rejection of claim 7 in the office action dated September 27, 2006 is maintained.

1. The applicant argues that Bush and Kennedy fail to disclose the following item(s) (paraphrased and shortened): In claim 19: the pull-in demand represents the demand for the second device design must be manufactured as soon as possible. Applicant's arguments with respect to claim 19 have been considered but are moot in view of the new ground(s) of rejection. Kennedy shows that when a customer is not willing to wait the supply facility creates promises in advance that are available for immediate transfer, in the Summary of the Invention.

4. The applicant argues that Bush and Kennedy fail to disclose the following item(s) (paraphrased and shortened): In claims 30, 41, 52, and 55: where the pull-in demand represents a second device design must be manufactured as soon as possible.

Applicant's arguments with respect to claims 30, 41, 52, and 55 have been considered but are moot in view of the new ground(s) of rejection. Kennedy shows that when a customer is not willing to wait, the supply facility creates promises in advance that are available for immediate transfer, in the Summary of the Invention.

5. The applicant argues that Bush and Kennedy fail to disclose the following item(s) (paraphrased and shortened): The capacity exchange between device designs.

Kennedy shows this in the Abstract and Summary of the Invention.

Art Unit: 3691

6. The applicant argues that Bush and Kennedy fail to disclose the following item(s) (paraphrased and shortened): A "pull-in demand". The applicant also argues that a "pull-in" demand is old and well known in the art. Therefore, it is not necessary for the Bush reference to restate or redefine this item.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claim 1-57 rejections under 35 U.S.C. 103(a) as being unpatentable over Bush et al. (US 2003/0125996) in view of Kennedy et al. (US 6,188,989) are maintained. See the Response to Arguments above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Muriel Tinkler whose telephone number is (571)272-7976. The examiner can normally be reached on Monday through Friday from 7:30 AM until 4 PM.

Art Unit: 3691

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

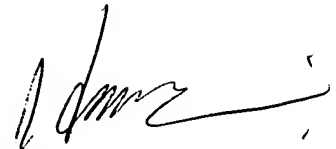
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3691

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

MT
March 29, 2007

A handwritten signature in black ink, appearing to read 'H. Kazimi', with a long horizontal flourish extending to the right.

HANI M. KAZIMI
PRIMARY EXAMINER